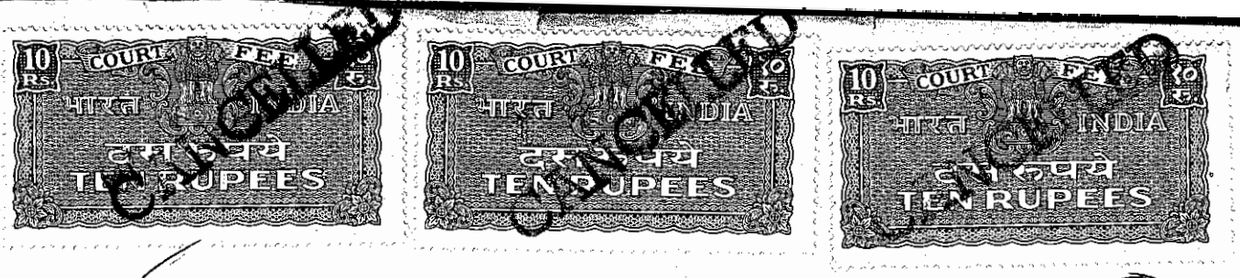

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

(3)

Writ Petition No. 41 of 2001

PETITIONER: S.K.Shrivastav S/o Late B.L.Shrivastav aged 59 yrs. Rtd. Assit. Soil conservation Officer resident of Sundar Nagar, Raipur (C.G.)

Versus

RESPONDENTS:
1. The State of Chhattisgarh through Principal, Secretary Agriculture Department Government, of Chhattisgarh Mantralaya, Raipur.
2. Director of Agriculture Chhattisgarh, Raipur.
3. Commissioner, Bastar Division, Jagdalpur.
4. Deputy Director of Agriculture, Bastar, District- Jagdalpur.

P.R. No. 41/2001
Presented by Shri Ram Kachhwaha
dated 8-1-2001

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA

XI-HC-22

56

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. No. 41/2001 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Before the Division Bench:
Hon. Shri KHN Kuranga, CJ and
Hon Shri L.C.Bhadoo, J

28.6.2003:

Smt. Renu Kochar counsel for the petitioner.
Ms. Sharmila Singhai, Dy. GA for the respondent.

Heard both the counsel.

By this writ petition filed under Articles 226/227 of the Constitution of India the petitioner seeks to challenge the order dated 13.12.2000 passed by the Administrative Tribunal, Bench Raipur in O.A. No. 329/2000 by which the Tribunal dismissed the Original application filed by the petitioner herein.

We have heard the learned counsel for both the parties and perused the material before us.

The only grievance of the learned counsel for the petitioner is that the petitioner was voluntarily retired with effect from 31.1.2000 and therefore there was no occasion for the Competent Authority to suspend the petitioner from 15.2.2000 and as such the order was bad. According to the counsel this aspect has not been considered by the Tribunal. On the other hand learned counsel for the respondent/State

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

57

आदेश पत्रक

मामला क्रमांक W.P. No. 41/2001 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

submitted that the voluntary retirement of the petitioner was accepted only on 10.5.2000 with effect from the back date i.e. 31.1.2000 and in between before the acceptance of the voluntary retirement on 10.5.2000, the petitioner was suspended by order dated 15.2.2000. So the suspension order was passed prior to the acceptance of the voluntary retirement of the petitioner. As such there was no irregularity or infirmity in the order of suspension passed against the petitioner.

A perusal of paragraph 14 of the impugned order passed by the Tribunal reveals that the contention of the learned counsel for the respondent/State is correct because it shows that the voluntary retirement of the petitioner was accepted on 10.5.2000, though it was to take effect retrospectively i.e. w.e.f 30.1.2000 and in between the suspension order was passed against him.

Counsel for both the parties admit that the petitioner herein preferred an appeal before the Competent Authority against the suspension order passed against the petitioner and the same is still pending.

[पीछे देखिये

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

58

आदेश पत्रक

-3-

मामला क्रमांक W.P.41 सन् 2001

.....विरुद्ध.....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	In view of the fact that when the appeal of the petitioner filed before the competent authority against the suspension order dated 15.2.2000 is still pending and that too when the Tribunal has given liberty to the petitioner to move the fresh petition after the dismissal of his appeal, the petitioner was not within his right to move this Court. After hearing counsel for the parties and after going through the material before us, we are of the opinion that this writ petition has no substance and the same is liable to be dismissed. Accordingly, it is dismissed. Sd/- Chief Justice	Sd/- L.C.BHADOO Judge